

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Marcquis Mayfield,

Plaintiff,

v.

Case No. 2:20-cv-4841

Department of Rehabilitation
and Correction, et al.,

Defendants.

ORDER

This is an action under 42 U.S.C. §1983 filed by Marcquis Mayfield, an Ohio *pro se* inmate, against the Ohio Department of Rehabilitation and Correction ("ODRC"), the warden of the Ross Correctional Institution, and Mr. Stutz, a "corrections officer-maintenance worker." Plaintiff alleged that when Mr. Stutz drove by him in a golf cart, plaintiff was stuck by eight large pieces of wood. Plaintiff further alleged that Mr. Stutz failed to stop to check on plaintiff's condition, and later was personally involved in an unconstitutional "cover-up scheme" when plaintiff filed a grievance about the incident.

On February 4, 2021, the magistrate judge filed a report and recommendation on the initial screen of plaintiff's complaint pursuant to 28 U.S.C. §1915A, which requires the court, "in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity," to dismiss a complaint that fails to state a claim upon which relief may be granted. 28 U.S.C. §1915A(a)-(b)(1). The magistrate judge concluded that any claims against ODRC and against the warden and Mr. Stutz in their official capacities were barred under the Eleventh Amendment and that plaintiff had failed to allege facts

which would support a claim against the warden in his individual capacity. The magistrate judge recommended dismissing these claims for failure to state a claim on which relief may be granted. The magistrate judge further recommended that plaintiff be permitted to proceed on his claim against Mr. Stutz in his individual capacity.

The report and recommendation specifically advised the parties that objections to the report and recommendation were due within fourteen days, and that the failure to object to the report and recommendation would result in a waiver of the right to have the district judge review the report and recommendation *de novo* and a waiver of the right to appeal the judgment of the district court. Doc. 4, pp. 7-8. The time period for filing objections to the report and recommendation has expired, and no objections to the report and recommendation have been filed.

The court agrees with the report and recommendation (Doc. 4), and it is hereby adopted. The claims against ODRC and against the warden and Mr. Stutz in their official capacities are dismissed pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) for failure to state a claim on which relieve may be granted. The clerk is instructed to terminate the Department of Rehabilitation and Corrections and the Ross Correctional Institution warden as parties. Plaintiff will be permitted to proceed on his claim against Mr. Stutz in his individual capacity.

Date: March 5, 2021

s/James L. Graham
James L. Graham
United States District Judge